

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:)
)
Initial Filing Window for Two-Way) DA 00-1256
Multipoint Distribution Service)
And Instructional Television)
Fixed Service)

COMMENTS OF CATHOLIC TELEVISION NETWORK

The Commission currently has pending two requests for postponement of the initial filing window for applications for two-way services on Multipoint Distribution Service ("MDS") and Instructional Television Fixed Service stations ("ITFS"), currently scheduled for July 3-10, 2000. See Public Notice, DA 00-666 (released Mar. 23, 2000). On June 6, 2000, ITFS 2020, L.L.C., filed a request for a nine-month delay in the window. And, on June 7, 2000, the Association of Federal Communications Consulting Engineers ("AFCCE") filed a request for a 130-day delay in the window.

AFCCE and ITFS 2020 point to similar reasons for the delay. First, the software for interference analyses conforming to Appendix D¹ has only been available for a short period of time, and is still being tested and updated. This software is also very complex, and requires substantial training time for use.

¹ See Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-Way Transmissions, 14 FCC Rcd 12764 (1999).

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Second, access to a current database of ITFS and MDS stations has also just been established. The FCC recently made its database of ITFS and MDS stations available electronically. This database is under review by the engineering firms that would prepare two-way applications for accuracy and completeness.

Third, preparation of two-way applications is a time-consuming process. The time needed to prepare applications has increased because of the complexity of designing two-way systems, the complexity of the interference protection analysis, and the time to run analyses through the new software. Given the shortness of time remaining before the scheduled opening date for the window, it will be difficult for interested licensees to develop complete applications for two-way services.

CTN agrees with the assessment of AFCCE on the difficulty of preparing applications for two-way services. In the attached statement, CTN's consulting engineers agree that the software needed to review applications for compliance with Appendix D is not readily available, raising potential difficulties for all licensees:

The ability of ITFS licensees (and MMDS licensees) to independently check both proposals and applications is fundamental to the Commission's radically changed regulatory approach, wherein the Commission will rely on applicant-to-applicant and applicant-to-licensee negotiations and, if necessary, petitions to deny, to ensure the integrity of the ITFS and MMDS spectrum as opposed to its own independent review of applications filed during the window.

Even for licensees not filing applications in the initial window, it would be difficult to respond to market-based proposals and filed applications if the software necessary to check interference analyses is not available.

CTN has been supportive of the Commission's efforts to develop two-way services on ITFS and MDS applications, and generally supports expeditious roll-out of stations providing two-way services to schools and communities.

However, the circumstances described above would not allow the goal of the initial two-way window to be achieved. In theory, the initial window provides all ITFS and MDS licensees and lessees the opportunity to obtain equal priority for their first two-way service applications. This opportunity for equal priority is critical because of the recognized preclusive effect on future two-way applications of an application on file.

It is now apparent that retaining the current filing date for the initial window is likely to result in unequal treatment of licensees. The unavailability of software until recently and the significant resources necessary to obtain and utilize the software favor large companies with the resources to purchase and prepare the applications. Smaller entities, like most ITFS licensees, with small or no engineering staff are effectively precluded from preparing applications on their own. Retaining engineering consultants either to prepare two-way applications or to analyze other parties' filed applications provides no simple solution because of the recent availability of the software and the necessary learning curve. Postponing the initial filing window will give the entire industry the time and opportunity to become familiar with the interference analysis procedures.

Interested parties may file two-way service applications once the rolling, one-day filing window period commences. However, given the preclusive effect of prior

applications, conducting the initial filing window now simply has the effect of giving large companies a significant advantage – not the level playing field that the all ITFS and MDS licensees deserve.

Accordingly, CTN concurs with AFCCE that the Commission should delay the opening of the filing window by 130 days. Such an extension will give all interested parties an opportunity to make sure that the necessary software and databases have been reviewed and to develop the expertise for preparation of two-way applications. CTN urges the Commission to postpone the first ITFS/MDS filing window for two-way services for 130 days.

Respectfully submitted,

CATHOLIC TELEVISION NETWORK

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Date: June 19, 2000

Catholic Television Network

**Joint Engineering Statement
in Support of AFCCE Petition for
a 130-Day Delay of the
Wireless Cable Cellularized,
Two-Way Filing Window**

MM Docket 97-217

June 13, 2000

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Catholic Television Network

Joint Engineering Statement of

John F.X. Browne, P.E., Robert W. Denny, Jr., P.E., and Dane E. Ericksen, P.E.

The firms of John F.X. Browne and Associates, P.C., Denny & Associates, P.C., and Hammett & Edison, Inc., have prepared this engineering statement in support of the Association of Federal Communications Consulting Engineers for a *Petition Requesting Revision of Initial Filing Window for Two-Way Multipoint Distribution and Instructional Television Fixed Service*.

A Delay of the Filing Window is Necessary to Allow ITFS Licensees and Their Consulting Engineers Additional Time to Implement the Appendix D Methodologies

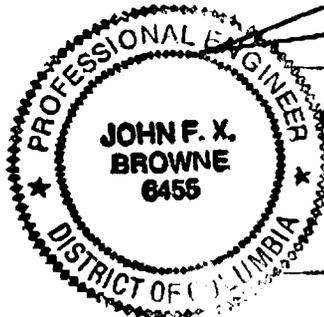
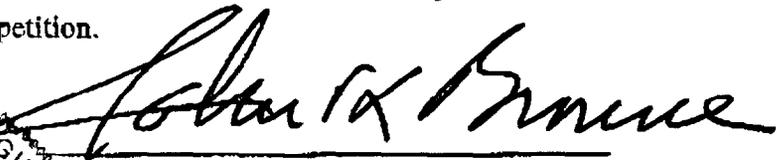
1. We jointly concur with the June 6, 2000, petition filed by the Association of Federal Communications Consulting Engineers ("AFCCE") for a 130-day delay of the July 3–10, 2000, filing window for digital, two-way, "cellularized," ITFS and MMDS stations. We agree that the necessary software to allow ITFS licensees, or their consulting engineers, to independently check applications for compliance with the new and highly complex Docket 97-217 Appendix D methodologies is not yet readily available. The ability of ITFS licensees (and MMDS licensees) to independently check both proposals and applications is fundamental to the Commission's radically changed regulatory approach, wherein the Commission will rely on applicant-to-applicant and applicant-to-licensee negotiations and, if necessary, petitions to deny, to ensure the integrity of the ITFS and MMDS spectrum, as opposed to its own independent review of applications filed during the window.

2. Each of us have personally experienced some or all of the problems identified in the AFCCE petition.

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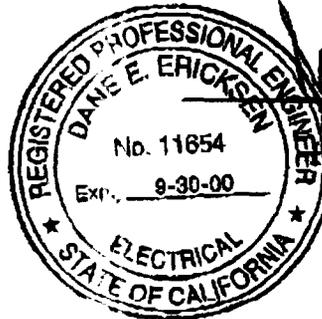
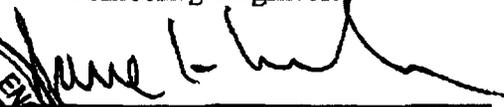
Summary

3. The undersigned Registered Professional Engineers, all with many years of experience in preparing ITFS applications, and who have closely participated in the MM Docket 97-217 rule making and subsequent *ex parte* filings, agree with and support the AFCCE petition for a 130-day delay of the two-way filing window. Such delay will allow ITFS licensees the additional time needed to find and retain consulting engineers who can properly evaluate the many two-way, cellularized, digital wireless cable proposals being submitted to them by MMDS licensees and BTA holders. Such slippage of the filing window would therefore be in the public interest and we urge the Commission to grant the AFCCE petition.



John F.X. Browne, P.E.
John F.X. Browne and Associates, P.C.
Consulting Engineers

Robert W. Denny, Jr., P.E.
Denny & Associates, P.C.
Consulting Engineers



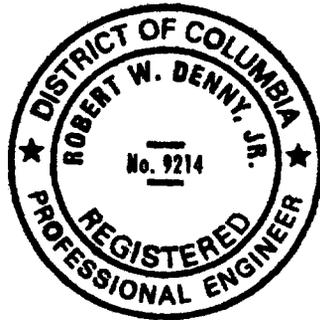
Dane B. Ericksen, P.E.
Hammett & Edison, Inc.
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John F.X. Browne, P.E.
John F.X. Browne and Associates, P.C.
Consulting Engineers

A handwritten signature in black ink, appearing to read "Robert W. Denny, Jr.", written over a horizontal line.

Robert W. Denny, Jr., P.E.
Denny & Associates, P.C.
Consulting Engineers

Dane E. Ericksen, P.E.
Hammett & Edison, Inc.
Consulting Engineers

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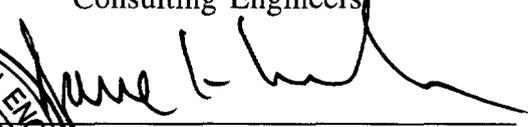
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